

JERSEY / JUDGMENT

AG v Heaney 04-Dec-2020 [2020] JRC 251 (04 December 2020)

[2020] JRC 251

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JUDGMENT

THE COMMISSIONER: 1. We need to deal first with the provisions under the Sex Offenders (Jersey) Law, 2010 . The defence do not oppose the orders sought by the Crown and we impose them, namely that 7 years from today should elapse before the defendant can apply to lift the notification requirements and we impose the restraining orders set out in paragraph 22 of the Crown's Conclusions. 2. Turning to the sentence, the defendant stands to be sentenced for five counts of making indecent images and movies of children by downloading them from the internet or storing them on devices after doing so and this following a trial. Of the 268 images and movies involved, 7 were Category A or Copine Level 4, but the majority were in the lower Level C or Copine Level 1. Taking the most serious offence the guideline case of AG v Godson and Crowley

[2013] JRC 091 defines these as within Category 4, attracting an initial figure of 3 years on all of the assumptions that apply in that case, save that the quantity of images were not small. Any number above 100 is considered large for the purposes of sentencing. 3. In addition to the quantity of images the Crown submit that the offences are further aggravated by the collection involving 29 moving images and by the period of time in which the offences were committed namely some 6 years from 2013 to 2019. 4. The defendant remains fixed in his position that he did not commit these offences and that his devices were hacked by others. He is assessed at a low risk of reconviction and the Crown assess the initial figure after taking into account aggravating and mitigating features of the offences at 3½ years reduced to a final sentence of 3 years after allowing for personal mitigation. 5. In terms of mitigation the defendant is of good character. He had regular employment and is supported by his mother and father who we note are in Court, and as well by other relatives and friends who have written very good letters on his behalf. Advocate Pinel for the defendant asks that we fix the sentences count by count accepting that the most serious count will determine the actual sentence the defendant will serve. In our view this is not the way the Court has dealt with these kind of offences in the past and we intend to follow the approach put forward by the Crown by imposing the same concurrent sentence for all five counts, that sentence to reflect the most serious of the offences. 6. We are not persuaded that the inclusion of movie images in this case is an aggravating feature and in

terms of looking at the aggravating and mitigating features of the offences as a whole we determine that 3 years is the correct initial figure. 7. As to personal mitigation, the defendant of course gets no discount for a guilty plea as he has caused a trial and still maintains his innocence but he is entitled to a discount for his good character and his cooperation with the police in providing a list of passwords to the devices that were seized. 8. You are sentenced to 2½ years' imprisonment on each of Counts 1 to 5, concurrent, which makes a total of 2½ years' imprisonment. 9. We order the forfeiture and destruction of the devices. Authorities Sex Offenders (Jersey) Law, 2010. AG v Godson and Crowley

[2013] JRC 091 . Protection of Children (Jersey) Law AG v Le Gros

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